

AMENDED IN SENATE JUNE 22, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 3065

**Introduced by Committee on Governmental Organization
(Jerome Horton (Chair), Aghazarian, Bermudez, Calderon,
Chavez, Coto, Garcia, La Suer, Levine, Liu, Mountjoy, Negrete
McLeod, Torrico, and Yee)**

March 13, 2006

An act to amend Sections ~~23387 and 25511~~ 23387, 25509, and 25511 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 3065, as amended, Committee on Governmental Organization. Alcoholic beverages—~~licenses: tied-interests restrictions: licensees:~~ wholesalers and rectifiers: fixtures and supplies.

(1) *Existing law requires distilled spirits manufacturers, brandy manufacturers, beer manufacturers, wine blenders, distilled spirits rectifiers, distilled spirits wholesalers, and wine wholesalers to comply with specified billing procedures when selling and delivering beer, wine, or distilled spirits to a retailer.*

This bill would provide that the Legislature finds it necessary and proper to require a separation between specified business interests involved in the production and distribution of alcoholic beverages for specified reasons. This bill would also provide that the general prohibition against tied interests is to be limited to its express terms.

(2) Existing law permits a wholesaler or rectifier to sell the alcoholic beverages mentioned in his or her license to persons who take delivery of the alcoholic beverages within the state for delivery or

use outside of the state within 90 days from the date of the sale in accordance with rules and regulations prescribed by the department.

This bill would make technical, nonsubstantive changes to this provision.

~~(2)–~~

(3) Existing law permits a beer manufacturer or beer wholesaler to furnish, give, rent, lend, or sell, any equipment, fixtures, or supplies, other than alcoholic beverages, to a retailer whose equipment, fixtures, or supplies were lost or damaged as a result of a natural disaster, except that this provision does not apply to transactions that occur 6 weeks or more after the Governor proclaims an area to be in a state of disaster.

This bill would instead make this provision inapplicable to transactions that occur 3 months or more after the Governor proclaims an area to be in a state of disaster.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23387 of the Business and Professions
2 Code is amended to read:

3 23387. In addition to the other privileges exercised under a
4 wholesaler's or rectifier's license, a wholesaler or rectifier may
5 sell the alcoholic beverages mentioned in his or her license to
6 persons who take delivery of the alcoholic beverages within this
7 state for delivery or use outside of the state within 90 days from
8 the date of the sale in accordance with rules and regulations
9 prescribed by the department.

10 SEC. 2. Section 25509 of the Business and Professions Code
11 is amended to read:

12 25509. (a) A distilled spirits manufacturer, a brandy
13 manufacturer, a beer manufacturer, a winegrower, a wine
14 blender, a distilled spirits rectifier, a wine rectifier, a distilled
15 spirits wholesaler or a beer and wine wholesaler who sold and
16 delivered beer, wine, or distilled spirits to a retailer and who did
17 not receive payment for such beer, wine, or distilled spirits by the
18 expiration of the 42nd day from date of delivery shall charge the
19 retailer 1 percent of the unpaid balance for such beer, wine, and

1 distilled spirits on the 43rd day from date of delivery and an
2 additional 1 percent for each 30 days thereafter.

3 **A**

4 (b) A distilled spirits manufacturer, a brandy manufacturer, a
5 beer manufacturer, a winegrower, a wine blender, distilled spirits
6 rectifier, a wine rectifier, distilled spirits wholesaler or beer and
7 wine wholesaler who sold and delivered beer, wine, or distilled
8 spirits to a retailer and who did not receive payment in full by the
9 expiration of the 30th day from date of delivery or who has not
10 received payment of the 1 percent charge at the expiration of the
11 30th day from the day the charge became due shall thereafter sell
12 beer, wine, or distilled spirits to said retailer either for cash or by
13 receiving payment in advance of delivery until such time as all
14 payments are received for the beer, wine, or distilled spirits sold
15 and delivered to the said retailer more than 30 days previously.

16 **The**

17 (c) The 42-day period and the 30-day period provided for in
18 this section shall commence with the day immediately following
19 the date of invoice and shall include all successive days including
20 Sundays and holidays to and including the 42nd or 30th day as
21 the case may be. When the 42nd day from date of invoice or the
22 expiration of each additional 30-day period falls on Saturday,
23 Sunday or legal holiday, the next business day shall be deemed to
24 be the expiration day.

25 **All**

26 (d) All moneys received from a retailer in payment for any
27 beer, wine, or distilled spirits sold and delivered to him shall be
28 first applied to the payment of the oldest balance on beer, wine,
29 or distilled spirits. All checks received for such payments shall be
30 deposited for collection not later than the second business day
31 following receipt of said check. A promissory note, postdated
32 check or check dishonored on presentation shall not be deemed
33 payment.

34 (e) *In enacting this subdivision, the Legislature finds that it is*
35 *necessary and proper to require a separation between*
36 *manufacturing interests, wholesale interests, and retail interests*
37 *in the production and distribution of alcoholic beverages in*
38 *order to prevent suppliers or wholesalers from dominating local*
39 *markets through vertical integration and to remove the retailer*
40 *from financial or business obligations to suppliers or*

1 *wholesalers by the extension of credit beyond the terms*
2 *contained in this section. The Legislature further finds that the*
3 *exception established by this section to the general prohibition*
4 *against tied interests shall be limited to its express terms so as*
5 *not to undermine the general prohibition, and intends that this*
6 *section shall be construed accordingly.*

7 ~~SEC. 2.~~

8 SEC. 3. Section 25511 of the Business and Professions Code
9 is amended to read:

10 25511. Notwithstanding any other provision of this division,
11 a beer manufacturer or beer wholesaler, or any officer, director,
12 or agent of any of those persons may furnish, give, rent, lend, or
13 sell, directly or indirectly, any equipment, fixtures, or supplies,
14 other than alcoholic beverages, to a retailer whose equipment,
15 fixtures, or supplies were lost or damaged as a result of a natural
16 disaster and whose premises are located in an area proclaimed to
17 be in a state of disaster by the Governor.

18 This section does not apply to transactions that occur three
19 months or more after the Governor proclaims an area to be in a
20 state of disaster.

21 Nothing in this section is intended to affect or otherwise limit
22 Section 23104.1, 23104.2, or 23104.3.